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ABSTRACT

A study was conducted to determine what oral and written communication courses lawyers both perceive as useful in practice and recommend for prelaw students and to provide data for design and development of these and related courses in continuing education programs for lawyers and legal assistants. A total of 295 lawyers from California responded to a questionnaire asking them to make selections from a list of 14 undergraduate communication courses in response to open-ended questions. Two of the questions required that they list courses in a rank order of preference. With regard to counseling prelaw students and development of oral and written communication courses with prelaw emphasis, the subjects recommended courses with the following theory and skill content in order of importance: (1) written argument/persuasive writing, (2) oral argument/debate, (3) public speaking, (4) public address/persuasive speaking, (5) speech and debate competition, (6) interviewing, and (7) ethics. With regard to developing courses in either continuing education or consulting practices, the results ranked ethics first, followed by written/argument/persuasive writing, counseling, and interpersonal communication. The remaining skills were primarily speech skills, specifically public address/persuasive speaking, public speaking, and oral argument/debate. (HTH)

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A SURVEY OF COMMUNICATION COURSES RECOMMENDED BY CALIFORNIA ATTORNEYS

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A Survey of Communication Courses Recommended by California Attorneys

PURPOSE

Speech Communication teachers and educators have traditionally been involved in teaching courses in written and oral communication for the pre-legal students as a perusal of university catalogues indicates. Most Communication Studies departments count among their current majors and recent graduates a significant number of pre-legal students who chose a communication studies major because they thought it would in some way provide them with a useful set of skills for both success in law school and in the eventual practice of law. Further, most communication studies departments count among their students in general education courses and elective courses, a significant number of pre-legal students who seek to acquire useful oral and written communication skills for application in law school and in legal practice. Many communication studies teachers actually advise communication studies majors and minors on pre-law curricula, programs, LSAT test procedures and the law school application and admission process.[1] Some communication studies

1 See 1984-85 Prelaw Adviser's Kit and 1984-85 Prelaw Handbook and Law School Admissions Council, Inc. 1984.

departments offer specialized courses in legal communication and argumentation and persuasion in courts of law and legal communication is fast becoming a recognized interest group in the major communication studies conventions and in published research and inquiry as will be discussed in the next section. Some communication studies departments have established major and minor concentrations of courses for the pre-legal student.

In light of this traditional and growing involvement and interest in providing courses, counseling and advising for the pre-legal student, and studying argumentation in legal contexts, there is very little authoritative opinion evidence to support the conclusion that oral and written communication courses are useful or helpful to the lawyer in practice. The purpose of this study was fourfold with respect to the above perceived need: 1) to aid in curriculum design in communication studies programs for pre-legal students; 2) to provide data for communication studies teachers and professional consultants to aid in the design and development of communication theory and skills courses in continuing education programs for lawyers and legal assistants; 3) to provide data to explore the relationship among undergraduate

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2 Ronald J. Matlon, Teaching Communication In The Legal Process." Communication Education, Vol. 30 (October 1981), pp. 399-409. See also, Glen E. Mills, "Legal Argumentation: Research and Teaching." Western Speech Communication, (Spring 1976), pp. 83-90.

3 For instance there is an 18-unit pre-legal minor in the Department of Communication Studies at San Jose State University, San Jose, California, which is directed by co-author Kenneth W. Salter.

written and oral communication courses and lawyer communication skills; 4) to provide opinion evidence on what oral and written communication courses lawyers perceive as useful in practice and recommend be taken by undergraduate pre-legal students.

PREVIOUS RESEARCH

There has been very little research done seeking opinion evidence from lawyers as to the relationship among undergraduate communication studies curriculum design and content and lawyers skills and recommendations. Most research to identify communication and other skills important to the practicing attorney have surveyed lawyers, recent law graduates, law school alumni and deans to determine the need for changes in law school courses and curricula.[4] Many of the law school education studies have sought to survey and assess the need for law school courses that emphasize a clinical or "how to do it skills development approach" to legal training as opposed to the more traditional case method which focuses on analysis of appellate court decisions and emphasizes the Socratic method of class discussion and

4 Richard Dunn, "Legal Education and the Attitudes of Practicing Attorneys," Journal of Legal Education, 22 (1969), 220. See also Stern, "Retrospection: What Recent Law School Graduates Think of Their Education," Student Lawyer Journal, 17 (1972), 27 and Schwartz, "The Relative Importance of Skills Used by Attorneys," Golden Gate Law Review, 31 (1973) 321.

analysis.[5] A perusal of law school catalogues and bulletins indicates the nation's law schools tend to emphasize either the theoretical case method approach or a clinical approach or some combination of the two.

One major in depth research study was conducted by Deedra Benthall-Nietzel for the University of Kentucky College of Law.[6] The Nietzel study surveyed Kentucky lawyers in an attempt to identify skills required by practicing attorneys and evaluate the need for law school courses to teach those necessary "lawyering skills" identified by the respondents as important and relevant to legal practice. While the Nietzel study and the Schwartz[7] study (on which the Nietzel study's skill designations were based) added to our knowledge of the variety of skills the lawyer uses in legal practice and the percentage of time lawyers spend performing various tasks, these studies as well as subsequent studies evaluating law school curricula have concentrated on skills capable to be taught in law schools and not skills taught at the undergraduate level which is one major concern of the present study. Interestingly enough, a majority of the Nietzel study respondents felt that while most the 15 top rated skills or

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5 See Stevens, "Law Schools and Law Students," Virginia Law Review, 59 (1973) 551 for the report of studies conducted at eight law schools across the country of alumni to ascertain the importance of interpersonal skills training at the eight institutions. Also see "Looking Back at Law School," California State Bar Journal (December 1980) pp. 492-497.

6 Deedra Benthall-Nietzel, "An Empirical Investigation of the Relationship Between Lawyering Skills and Legal Education," Kentucky Law Journal 63 (1975) pp. 373-97.

7 Schwartz, Supra note 4.

characteristics could be taught in law school, four skills often associated with communication studies courses--thinking on one's feet, counseling, interviewing, and negotiating--were not endorsed as capable of being taught in law school.[8] Other skills sometimes associated with communication studies courses--understanding human behavior, self-confidence, persistence, sense of humor, and engaging personality were not included in the Nietzel survey and it was suggested that they should be studied. The results of the Nietzel study supported the conclusions of the Steven's study in which law school alumni strongly endorsed the teaching of communication skills including the ability to counsel and interview clients and to negotiate and arbitrate.[9]

Research in the communication studies field has concentrated on trying to establish that certain undergraduate communication course areas, like forensics are useful to the lawyer and should be recommended for all pre-legal students[10] and to assess the various effects of verbal and communication skills and behavior in the various phases of the trial advocacy process.[11]

Despite the significant contributions made by these studies and surveys, we concluded that additional research was desirable

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8 Nietzel, Supra note 6 at p. 386.
9 Stevens, Supra note 5.
10 See William Arnold, "Debate and the Lawyer," JAFA, 3 (1966) 26-28 and Russell Taylor Church, "The Educational Value of Oral Communication Courses and Intercollegiate Forensics: An Opinion Survey of College Prelegal Advisors and Law School Deans," JAFA, 12 (1975) 49-55.
11 Michael G. Parkinson, Deborah Geisler, and Mary Hinchcliff Pelias, "The Effects of Verbal Skills on Trial Success," JAFA, 20 (Summer 1983) 16-22.

for several reasons. One, none of the studies cited sampled a full range of oral, written and theory oriented communication studies courses. Secondly, most of the studies surveyed college pre-legal advisors and teachers rather than practicing lawyers, and thirdly, most of the studies tried to correlate skills rather than course offerings. This study attempted to add to the existing research in these three respects.

METHODS AND PROCEDURES

A random sample of 960 attorneys was obtained from the California State Bar Association. They selected every eighth name on their mailing list. These lawyers were sent a questionnaire using open-ended questions. A total of 295 usable questionnaires were returned reflecting a 30 percent response rate. Fourteen undergraduate communication courses were listed at the top of the questionnaire. Then respondents were asked to make selections from these courses in response to open-ended questions. Two of the questions required they list courses in a rank order of preference. Occasionally a response to an item on one of the questions was something like "all of the courses are equally important" rather than making the requested ranking; in those cases the responses were reported as "no response."

RESULTS

The first research question was:

R1 Which undergraduate communication studies courses were taken by California lawyers?

Table 1 illustrates the response frequencies.

On all but two courses, at least eighty-five percent of respondents indicated they had not taken the courses. Only Public Speaking and Oral Argument/Debate were listed by at least 17 percent of the lawyers. This indicates that while they may have taken a required general education course in oral communication, most respondents have not taken very many undergraduate communication courses.

After determining who actually took specific courses, it was possible to ascertain their opinions about the worth of these courses in their law practices. Thus, the second research question was:

R2 Which of the communication studies courses actually taken by California lawyers did they find helpful in their practice?

Table 2 illustrates their response frequencies.

Of those indicating they had taken undergraduate courses, a clear preference for courses taken in Ethics, Public Speaking, Written Argument/Persuasive Writing, and Oral Argument/Debate was shown as helpful in their practices. All the course areas surveyed had a fair representation which might be due to some of the respondents who may have majored in Communication Studies as undergraduates.

TABLE 1

Question No. 1: Please indicate the item numbers of the above courses you took as an undergraduate.

RESPONSES

	Listed Course		Did Not List Course	
	N	%	N	%
Small Group Communication/ Discussion Theory	28	10	267	90
Interpersonal Communication	13	4	282	96
Oral Argument/Debate	50	17	245	83
Public Speaking	116	39	179	61
Communication Theory	23	8	272	92
Interviewing	8	3	287	97
Nonverbal Communication	16	5	297	95
Public Address/Persuasive Speaking	28	10	267	90
Written Argument/Persuasive Writing	40	14	255	86
Speech and Debate Competition	39	13	256	87
Rhetorical Analysis/Criticism	22	8	273	92
Semantics	19	6	276	94
Counseling	12	4	283	96
Ethics	31	11	264	89

TABLE 2

Question No. 2: Please indicate the item numbers of the above courses you took which you found helpful in your legal practice.

RESPONSES

	Took and Listed Course		Took But Did Not List Course	Did Not Take or List Course	
	N	%	N	N	%
Small Group Communication/ Discussion Theory	16	5	12	267	95
Interpersonal Communication	10	3	3	282	97
Oral Argument/Debate	42	14	8	237	83
Public Speaking	75	25	41	133	75
Communication Theory	9	3	14	258	92
Interviewing	17*	6	0	278	94
Nonverbal Communication	12	4	4	279	96
Public Address/Persuasive Speaking	21	7	7	267	93
Written Argument/Persuasive Writing	47*	16	0	248	84
Speech and Debate Competition	29	10	10	256	90
Rhetorical Analysis/Criticism	13	4	9	273	96
Semantics	12	4	7	276	96
Counseling	22*	8	0	273	92
Ethics	99*	34	6	190	66

* Some respondents indicated they took these courses as Graduate Students rather than undergraduates.

The next question concerned the opinions of all respondents, not just the ones with actual course experience, about the value of communication studies curriculum offerings for pre-law study. The research question was:

R3 Which communication studies courses are recommended for pre-law students by California lawyers?

Table 3 illustrates their ranked response frequencies.

The table clearly shows that four courses were consistently ranked in the top five recommendations: written argument/persuasive writing, oral argument/debate, public speaking, public address/persuasive speaking.

However, the course most often ranked as the number one recommendation was oral argument/debate (N=60). The second highest was written argument/persuasive writing (N=56). The third highest for first choice was public speaking (N=32).

The fourth research question concerned respondent recommendations for continuing education programs.

R4 What communication studies courses, in order of preference, do California lawyers recommend practicing attorneys take as part of a continuing education program?

Table 4 illustrates their ranked response frequencies.

The table clearly shows that courses in ethical problem solving were perceived by lawyers as a much needed area of continuing study. It was also ranked the number one by the

TABLE 3

Question No. 3: Which of the above communication courses, if any, would you recommend pre-law students study? Please list them in order of importance.

RESPONSES

N=295

	Listed Course N	%	Ranked In Top Five N	Did Not List Course N	%
Written Argument/Persuasive Writing	188	64	174	107	36
Oral Argument/Debate	148	50	141	147	50
Public Speaking	132	45	118	163	55
Public Address/Persuasive Speaking	110	37	98	185	63
Speech and Debate Competition	82	28	62	213	72
Interviewing	79	27	71	216	73
Ethics	69	23	52	226	77
Rhetorical Analysis/Criticism	49	17	33	246	83
Nonverbal Communication	46	16	37	249	84
Counseling	43	15	29	252	85
Interpersonal Communication	38	13	33	257	87
Semantics	36	12	24	259	88
Communication Theory	31	10	28	264	90
Small Group Communication/ Discussion Theory	26	9	20	269	91

TABLE 4

Question No. 4: Which of the above communication courses, if any, would you recommend practicing attorneys take as a part of a Continuing Education program? Please list them in order of importance.

RESPONSES

N=295

	Listed Course N	Listed Course %	Ranked In Top Five N	Did Not List Course N	Did Not List Course %
Ethics	80	27	73	215	73
Written Argument/Persuasive Writing	58	20	54	237	80
Interviewing	50	17	42	245	83
Counseling	47	16	39	248	84
Interpersonal Communication	40	14	33	255	86
Public Address/Persuasive Speaking	34	11	30	261	89
Public Speaking	32	11	30	263	89
Oral Argument/Debate	31	10	28	264	90
Communication Theory	29	10	28	266	90
Nonverbal Communication	27	9	24	268	91
Semantics	18	6	15	277	94
Small Group Communication/ Discussion Theory	15	5	12	280	95
Rhetorical Analysis/Criticism	12	4	9	283	96
Speech and Debate Competition	6	2	2	289	98

greatest number of respondents (N=46). Written argument/persuasive written was ranked second in the top five as might be expected given the responses to question number three. Of considerable interest were the listing of interviewing, counseling and interpersonal communication as the third through fifth choices. All three of these courses share a common theoretical base and are perceived as non-adversary skills. Communication scholars interested in private consulting and seminar training may regard this as an important area for development of consulting services.

In an effort to determine distinct associations among oral and written communication courses lawyers took as undergraduates and their perceptions of how those courses helped them actually practice law, the following two research questions state:

R1 To what extent have lawyers found their undergraduate oral communication courses helpful in legal practice?

R2 To what extent have lawyers found their undergraduate written communication courses helpful in legal practice?

Analysis of data for these questions included the formation of four new variables. The first new variable called Oral Courses Taken was formed by combining nominal data obtained from question number 1 on the following courses: Small Group Communication/ Discussion Theory; Interpersonal Communication; Oral Argument/ Debate; Public Speaking; Interviewing; Persuasive Speaking and Speech and Debate Competition. The second variable called Written

Courses Taken was formed by combining nominal data obtained from question number 1 on Written Argument/Persuasive Writing and Rhetorical Analysis/Criticism. The third new variable consisted of a combination of ranked ordinal data from question number 2. It is titled Helpful Oral Courses and includes: Small Group Communication/Discussion Theory; Interpersonal Communication; Oral Argument/Debate; Public Speaking; Interviewing; Persuasive Speaking; and Speech and Debate Competition. The fourth new variable, Helpful Written Courses included ordinal ranked data concerning Written Argument/Persuasive Writing and Rhetorical Analysis/Criticism. Analyses were conducted with Kendall's tau and Spearman's rho. Since there were no major differences between the matrices, for brevity's sake only Kendall's tau will be reported in Table 5.

The final two questions concerned the possible association among the oral and written communication courses the small percentage of California lawyers indicated they took as undergraduates and the recommendations all respondents made about oral and written communication pre-legal curriculum. The new variables Oral Courses Taken and Written Courses Taken were used, however, two additional variables were computed using ordinal data from question number 3. Oral Courses Recommended included rankings from Small Group Communication/Discussion Theory; Interpersonal Communication; Oral Argument/Debate; Public Speaking; Interviewing; Persuasive Speaking and Speech and Debate Competition. Written Courses Recommended included rankings from Written

TABLE 5

Kendall's Tau Correlation Coefficients

N = 295

	Oral Courses Taken	Written Courses Taken	Helpful Oral Courses	Helpful Written Courses
Oral Courses Taken	1.0000 τ=****	.3033 τ=.001*	.6149 τ=.001*	.2046 τ=.001*
Written Courses Taken	.3033 τ=.001*	1.0000 τ=****	.3143 τ=.001*	.6156 τ=.001*
Helpful Oral Courses	.6149 τ=.001*	.3143 τ=.001*	1.0000 τ=****	.3706 τ=.001*
Helpful Written Courses	.2046 τ=.001*	.6156 τ=.001*	.3706 τ=.001*	1.0000 τ=****

* Correlations significant at .05

TABLE 6

Kendall's Tau Correlation Coefficients

N = 295

	Oral Courses Taken	Written Courses Taken	Oral Courses Recommended	Written Courses Recommended
Oral Courses Taken	1.0000 τ=****	.3033 τ=.001*	.1366 τ=.010*	.0254 τ=.333
Written Courses Taken	.3033 τ=.001*	1.0000 τ=****	.0775 τ=.093	.1346 τ=.011*
Oral Courses Recommended	.1366 τ=.010*	.0775 τ=.093	1.0000 τ=****	.3524 τ=.001*
Written Courses Recommended	.0254 τ=.333	.1346 τ=.011*	.3524 τ=.001*	1.0000 τ=****

* Correlations significant at .05

Argument/Persuasive Writing and Rhetorical Analysis/Criticism. Again, while both nonparametric analyses were completed, only Kendall's tau is reported in Table 6.

CONCLUSIONS

Based on the above reported results of the survey, we can draw a number of broad conclusions which should help in the counselling of undergraduate pre-legal students who seek to acquire useful oral and written communication skills for application in law school and legal practice as well as identification of those areas that communication studies instructors and consultants might emphasize in development of communication theory and skills courses for continuing education programs for lawyers and legal assistants.

With respect to counseling pre-legal students and development of oral and written communication courses with pre-legal emphasis, the study clearly shows that California lawyers recommend courses with the following theory and skill content in order of importance (Table 3):

1) Written Argument/Persuasive Writing
2) Oral Argument/Debate
3) Public Speaking
4) Public Address/Persuasive Speaking
5) Speech and Debate Competition
6) Interviewing

7) Ethics

Based on the perceived need for these course areas by California lawyers, there would seem to be considerable support for counselling pre-legal students to take these courses as undergraduates and to justify the development of minor programs in communication studies departments for pre-legal students which emphasize or require these courses as essential to preparation for law school and legal practice. As most communication studies programs contain course offerings in most of the recommended areas, it should be easy enough to organize and provide a pre-legal minor program based on the above list. For those communication studies departments which do not provide courses in some of the recommended subject areas, they might consider new course development in these areas. The development of a pre-legal minor program based on the courses recommended by lawyers in the present study could potentially bring significant numbers of new students to communication studies programs as well as new majors who might wish to concentrate in these theory and subject areas as well as other areas in the major program.

With respect to developing communication courses, seminars and programs in either continuing education or in a consulting practice, the results reported in Table 4 of the study clearly show that curricular and course/program emphasis should be as follows in order of preference:

1) Ethics

2) Written Argument/Persuasive Writing

3) Counseling

4) Interpersonal Communication

5) Public Address/Persuasive Speaking

6) Public Speaking

7) Oral Argument/Debate

Given the demonstrated need for courses in the above areas as perceived by practicing lawyers in California and given the large percentage of attorneys (see Tables 1 and 2) who did not take these courses as a student, there would appear to be significant and untapped potential for new courses and seminars in both continuing education programs and seminars offered through consulting services to groups and associations of lawyers as well as to large law firms who conduct in-house training programs. As courses in Ethics (problem solving and understanding of rules and standards of professional conduct), Counseling and Interviewing are subject areas that are not taught in all communication studies departments and have not been considered part of the essential or core course requirements of most major programs, these areas would seem to be particularly fruitful areas for new course/seminar development for the consultant.